

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

Broward County, Florida v. Purdue Pharma L.P., et al., Case No. 18-OP-45332 (N.D. Ohio);

Cabell County Commission, West Virginia v. AmerisourceBergen Drug Corp., et al., Case No. 17-OP-45053 (N.D. Ohio);

County of Monroe, Michigan v. Purdue Pharma L.P., et al., Case No. 18-OP-45158 (N.D. Ohio);

The City of Chicago, Illinois v. Purdue Pharma L.P., Case No. 17-OP-45169 (N.D. Ohio)

The County of Summit, Ohio, et al., v. Purdue Pharma L.P., et al., Case No. 18-OP-45090 (N.D. Ohio).

MDL NO. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL
AUTHORITY**

NOTICE is hereby given of supplemental authority recently issued that supports Plaintiffs' Oppositions to Defendants' Motions to Dismiss filed in the above-captioned cases pursuant to Case Management Order 4 (docket no. 485). See docket nos. 653 (Chicago I), 654 (Summit County), 726 (Chicago II), 727 (Cabell County), 729 (Monroe County), and 730 (Broward County).

We write to provide the Court with three recent state court rulings denying motions to dismiss filed by the manufacturers and/or distributors in opioid cases pending in Kentucky, Alaska, and New York, each issued after Plaintiffs' opposition briefs were filed. Copies of these three decisions are attached hereto. See *Commonwealth of Kentucky v. Endo Health Solutions, Inc. et al.*, C.A. No.

17-CI-1147, Franklin Circuit Court, Ky (July 10, 2018) (attached as Exhibit A); *State of Alaska v. Purdue Pharma, L.P., et al.*, Case No. 3AN-17-09966CI, Third Judicial District Anchorage, Alaska (July 12, 2018) (attached as Exhibit B); *In Re Opioid Litigation*, No. 400000/2017, Suffolk County, NY (July 17, 2018) (attached as Exhibit C).

In *Kentucky v. Endo*, C.A. No. 17-CI-1147, the Circuit Court of Franklin County denied the Motion to Dismiss filed by Endo Health Solutions, Inc. and Endo Pharmaceuticals, Inc. The Court's order rejected arguments that the claims should be dismissed on each of the following grounds, *inter alia*: failure to allege causation, *id.* at 2-9; failure to plead with particularity, *id.* at 9-10; and failure to state a claim for public nuisance. *Id.* at 13-14.

The Court in *Alaska v. Purdue Pharma*, Case No. 3AN-17-09966CI, denied defendants' motion to dismiss claims similar to the ones pled by the Plaintiffs in this MDL. The Court held that Alaska's complaint properly stated claims for unfair trade practices/consumer protection act violations, *id.* at 4-6; public nuisance, *id.* at 8-9; fraud and negligent misrepresentation, *id.* at 9-11; strict products liability/design defect and failure to warn, *id.* at 11-13; and unjust enrichment. *Id.* at 13-14.

In *In re Opioid Litigation*, No. 400000/2017, the New York Court denied motions to dismiss filed by the distributor defendants. The Court rejected arguments that the claims should be dismissed on the following grounds: particularity in pleadings, *id.* at 4-5; municipal cost recovery rule, *id.* at 6; public nuisance, *id.* at 12-14; fraud, *id.* at 15-16; unjust enrichment, *id.* at 16-17; and negligence. *Id.* at 17-20.

These rulings provide further support for denying the pending motions to dismiss.

Dated: July 25, 2018

Respectfully submitted,

/s/ *Elizabeth J. Cabraser*

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 2018, I caused a copy of the foregoing document to be served, by filing a true and correct copy with this Court's CM/ECF system, to all counsel of record.

Dated: July 25, 2018

/s/Elizabeth J. Cabraser
Elizabeth J. Cabraser

Attorney for the Plaintiffs